



Appeal Decision

Site visit made on 13 December 2023 by A Coombes MRTPI

Decision by L McKay MA MRTPI

an Inspector appointed by the Secretary of State

Decision date: 5 April 2024

Appeal Ref: APP/P4605/Z/23/3327850

Advertise Hoarding Near Richmond Road, Soho Hill, Birmingham B19 1AD

- The appeal is made under Regulation 17 of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 against a refusal to grant express consent.
 - The appeal is made by Mr Thomas Johnston (JCDecauxUK) against the decision of Birmingham City Council.
 - The application Ref 2023/03669/PA, dated 1 June 2023, was refused by notice dated 26 July 2023.
 - The advertisement proposed is removal of existing advertisement, followed by the installation of an internally illuminated digital display of similar dimensions
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Decision

1. The appeal is allowed, and express consent is granted for the display of the removal of existing advertisement, followed by the installation of an internally illuminated digital display of similar dimensions as applied for. The consent is for five years from the date of this decision and is subject to the five standard conditions set out in the Regulations and the following additional conditions:
 - 1) The intensity of the illumination of the digital display permitted by this consent shall be no greater than 300 candela during the hours of darkness.
 - 2) The sequential change of the advertisement displays shall not occur more frequently than once every 10 seconds and shall take place over a period of no greater than one second.
 - 3) The advertisements shall not display moving or apparently moving images.

Appeal Procedure

2. The site visit was undertaken by a representative of the Inspector whose recommendation is set out below and to which the Inspector has had regard before deciding the appeal.

Preliminary Matters

3. The Government published a revised version of the National Planning Policy Framework (Framework) on 19 December 2023. Whilst I have had regard to the revised national policy as a relevant factor, in this instance, the issues most relevant to this advertisement appeal remain unaffected by the revisions to the Framework. I am therefore satisfied that there is no requirement to seek further submissions on the revised Framework, and that no party would be disadvantaged by such a course of action.

4. The control of advertisements is exercisable only with respect to public safety and amenity. Regulation 3 states that powers in this regard shall be exercised taking into account the provisions of the development plan, so far as they are material, and any other relevant factors.

Main Issue

5. In this case neither the Council nor any other party has raised any objection to the proposal in relation to public safety. From the evidence before me, and my observations on site, I see no reason to disagree. Therefore, the main issue is the effect of the proposed scheme on amenity.

Reasons for the Recommendation

6. The Framework sets out that the quality and character of places can suffer when advertisements are poorly sited and designed, and that advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.
7. The appeal site is adjacent to a well-lit arterial route in a commercial area, with numerous advertisements in the immediate vicinity. In particular, the existing advertisement on the appeal site is the fourth in a series of large advertising displays along a short stretch of this side of the road, two of which are digital. The existing advertisement has been in situ for some time and although the Council has queried whether it benefits from consent, it has not provided evidence to the contrary. The proposal is for a digital display of the same size, scale and position. As it would be a direct replacement, it would not create additional visual clutter in the street scene.
8. The site is outside of, but immediately next to, the Soho and Lozells Conservation Area (SLCA), which includes a large Arts and Crafts style factory at 94 Soho Hill. Given its imposing scale, No. 94 can still be easily appreciated behind the existing advertisement, which sits at an angle to one side of its blank side wall. From the front of No 94 the existing advertisement is not seen together with the decorative front elevation as it is set back. Due to screening from other structures, they are only seen together for a short distance immediately adjacent the advertisement. As the proposed advertisement would be of the same size and position, it would remain subservient to No 94. Given the position in front of a predominantly blank brick façade, it would not obscure the architectural detailing on the principal elevation.
9. The proposal would introduce a modern, digital advertisement that would be internally illuminated and present interchangeable images, therefore it would have a different appearance to the existing advertisement. However, due to the urban character of the area there are multiple sources of lighting including streetlights and nearby illuminated advertisements. Furthermore, digital advertising is found in the immediate context of the site and intrinsic to the character of the area. Therefore, the proposed scheme would not materially alter the character of the area or appear incongruous in this context.
10. Conditions should be attached to control the level of illumination and the nature of the images displayed, so that the display would not be unduly prominent, particularly during hours of darkness. Given the levels of luminance and other advertisements already present however, there is no need for the display to be switched off overnight, nor are further details of illumination

control required. With such conditions, the proposal would not appear obtrusive or conspicuous in this location. It would not have a harmfully greater visual impact on the immediate area or on the setting of the SLCA than the existing advertisement on site.

11. For the reasons given above, the proposed advertisement would not harm amenity. I have taken into account Policy DM7 of the Development Management in Birmingham Development Plan Document (2021), which seeks to protect amenity and so is material in this case. I have also had regard to City Note SS-6 of the Birmingham Design Guide (BDG) Streets and Spaces City Manual, 2022, which also relates to advertisements and amenity. Given I have concluded that the proposal would not harm amenity, there is no conflict with this policy or guidance.
12. I have also had regard to policies PG3 and TP 12 of the Birmingham Plan 2031, (2017) and design principles 2 and 3 of the BDG Principles Document, 2022. These refer to development however, and advertisements are not development for the purposes of planning legislation, so they are not directly relevant to the proposal before me. Nevertheless, the proposal would comply with the requirement to respond to site conditions and the local area context, including heritage assets.

Conclusion and Recommendation

13. For the reasons given above and having had regard to all other matters raised, I recommend that the appeal should be allowed subject to conditions.

A Coombes

APPEAL PLANNING OFFICER

Inspector's Decision

14. I have considered all the submitted evidence and my representative's report and I agree with the reasoning and recommendation set out above. On that basis the appeal is allowed subject to the five standard conditions and the additional conditions set out above.

L McKay

INSPECTOR